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The Legalisation of Foreign Political Financing: Who Really Funds Democracy?

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I. INTRODUCTION

On 15 February 2024, India's Supreme Court delivered one of the most consequential rulings on political finance anywhere in the democratic world, declaring the Electoral Bonds Scheme unconstitutional and manifestly arbitrary.[1] The scheme, introduced in 2017, had allowed individuals and companies to donate to political parties through anonymous bearer instruments, and a parallel change to the law governing foreign contributions meant that money from foreign-owned companies could flow into it without being classified as foreign at all.[2] The ruling forced open, for the first time, a real picture of who had been funding Indian democracy, and it raised a wider question that reaches far beyond India: when a country writes rules that formally prohibit foreign money in elections while leaving the door open to it in practice, has that country actually banned foreign influence, or has it merely legalised it under a different name?

This paper compares the campaign finance systems of three of the world's largest democracies, the United Kingdom, the United States, and India, and argues that the persistence of foreign influence in each is not accidental. Despite formal prohibitions on foreign political financing, structural loopholes in UK, US, and Indian campaign finance law effectively permit foreign influence through domestic intermediaries, undermining democratic sovereignty. Each jurisdiction bans direct foreign donations, and each has nonetheless built, whether through company law, judicial interpretation of free speech, or targeted legislative amendment, a channel through which foreign money can reach parties and candidates while remaining formally domestic.

The paper proceeds in five parts. It begins with a conceptual account of why states restrict foreign financing and what dark money means in practice. It then examines the UK, US, and Indian systems in turn, before drawing out, in a comparative section, the shared architecture of loophole that connects them and the political forces that keep it in place.

1.1 Conceptual Framework

Foreign political financing refers to any contribution, monetary or in kind, made by a non-national individual, a foreign government, or a foreign-controlled entity to a domestic political party, candidate, or campaign. Most democracies restrict or ban it outright, and the underlying justification is fairly consistent across legal traditions. Elections are meant to translate the preferences of a political community into representative government; if a state allows outsiders with no stake in the outcome to bankroll that process, the mechanism ceases to reliably reflect that community's own preferences. A second justification is anti-corruption: large donations of any kind create the risk that access to policymakers is effectively for sale, and foreign donors add a further concern, since the interests being bought may not be simply commercial but geopolitical.

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[1] Krishnadas Rajagopal, 'Electoral Bonds Held Unconstitutional by Supreme Court' (Lexology, 26 March 2024) <https://www.lexology.com/library/detail.aspx?g=f2107762-d93e-45e5-9f24-7d2252e0d38e> Association for Democratic Reforms v Union of India, Supreme Court of India, judgment of 15 February 2024.

[2] Association for Democratic Reforms, 'Supreme Court Spotlight on Foreign Funds in Electoral Bonds' (ADR India) <https://adrindia.org/content/supreme-court-spotlight-foreign-funds-electoral-bonds> accessed 17 August 2026; Jairam Ramesh (X, 30 April 2024) <https://x.com/Jairam_Ramesh/status/1785985410360914345>

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Restricting political money nevertheless collides with a competing value: freedom of political expression. Spending money to communicate a political message is, on most accounts, a form of speech, and speech restrictions attract the highest level of scrutiny in liberal constitutional orders. This is the crux of the problem this paper investigates. A state that wants to exclude foreign money from politics but preserve robust domestic political speech cannot simply ban large donations outright; it has to draw a line between domestic and foreign sources, and any line drawn between two categories creates an edge that can be gamed. The three jurisdictions examined here draw that line differently, the UK through company registration, the US through the constitutional status of the spender, India through a statutory redefinition of what counts as foreign, but in each case the boundary between permitted domestic financing and prohibited foreign financing turns out to be porous.

This is where the concept of dark money becomes central. Dark money is political spending whose ultimate source is not disclosed to the public, most often because it is routed through an entity, a company, a trust, a nonprofit, whose own ownership or membership is opaque.[3] Dark money is not, by itself, foreign money; a great deal of it originates domestically. But opacity is precisely the condition under which foreign money can hide inside a domestic-looking structure. A shell company registered in a jurisdiction, a nonprofit that need not disclose its donors, or a bearer instrument that guarantees anonymity all share one structural feature: they break the link between the funds a party receives and the identity of the person who supplied them. Beneficial ownership, the question of who actually controls and benefits from an entity, as opposed to who is formally listed as its owner, is therefore the fault line running through all three case studies below. Wherever a country's political finance law asks only whether a donor is formally domestic, rather than who ultimately controls that donor, a gap opens through which foreign money can pass cleanly.

II. THE UNITED KINGDOM

The core of UK law is the Political Parties, Elections and Referendums Act 2000 (PPERA), introduced after the Committee on Standards in Public Life recommended tighter controls on party funding in 1998.[4] PPERA prohibits parties from accepting any donation or loan over £500 unless it comes from a permissible source, broadly, individuals registered on a UK electoral roll, UK-registered companies that carry on business in the UK, and UK-registered unincorporated associations.[5] Foreign nationals and foreign organisations are not permissible sources, and accepting money from an impermissible source is a criminal offence. On paper, this looks like a comprehensive ban.

In practice, three gaps sit inside this structure. The first and most significant is section 54 of PPERA, which allows any company incorporated in the UK and carrying on business in the UK to donate, regardless of who owns or controls that company.[6] The Electoral Commission's own guidance suggests parties check a company's filings at Companies House, but this guidance has no legal force, and there is no statutory obligation on parties to identify the beneficial owner

[3]Brennan Center for Justice, 'Citizens United, Explained' <https://www.brennancenter.org/our-work/research-reports/citizens-united-explained>

[4]House of Commons Library, 'Foreign Political Donations in the UK' (16 October 2025) <https://commonslibrary.parliament.uk/foreign-political-donations-in-the-uk/> accessed 17 August 2026.

[5]Electoral Reform Society, 'What Are the Political Donation Rules in the UK?' <https://www.electoral-reform.org.uk/what-are-the-political-donation-rules-in-the-uk/> accessed 17 August 2026; International Bar Association, 'Protecting Democracy' (Global Insight, 4 February 2026) <https://www.ibanet.org/protecting-democracy-igi-feb-26> accessed 17 August 2026.

[6]Political Parties, Elections and Referendums Act 2000, s 54; Written evidence to the Joint Committee on the National Security Strategy, UK Parliament Committees <https://committees.parliament.uk/writtenevidence/15150/html/> accessed 17 August 2026.

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behind a donating company.[7] A related provision, section 54A, would require donors to formally declare the true source of a donation, with criminal liability for false declarations; it was enacted in 2009, but the statutory instrument needed to bring it into force has never been issued, leaving it dormant seventeen years later.[8] The second gap concerns unincorporated associations, which can receive and pass on donations while facing minimal disclosure obligations of their own, making them, according to investigative reporting, one of the least understood but most exploitable routes for anonymous money entering British politics.[9] The third is the £500 threshold itself: because sums below that amount are not legally classified as donations, parties are not required to verify their source, creating an obvious route for foreign money to enter in small, unverified instalments, a risk regulators flagged after a party accepted online donations with no recorded country of origin.[10]

The clearest illustration of how these gaps operate is the sustained flow of donations to the Conservative Party from Lubov Chernukhin, a British citizen married to a former Russian deputy finance minister. Chernukhin is, by the letter of PPERA, an entirely permissible donor: she is a UK citizen on the electoral register, and her donations, which have totalled more than £2 million since 2012, including sums given at Conservative fundraising auctions to spend time with senior party figures, are lawful under UK law.[11] Leaked banking records reported by BBC Panorama showed that her husband received an $8 million payment routed through an offshore company linked to a sanctioned Russian oligarch close to the Kremlin, a transaction her legal representatives maintain has no bearing on her own donations.[12] Investigative reporting has also traced continuing Conservative Party donations from other Russia-linked donors and companies after Russia's 2022 invasion of Ukraine, including a British cabling company controlled by a Russian-born businessman.[13] None of this is illegal, and that is precisely the point: PPERA's test of formal citizenship and formal company registration cannot see through to the ultimate source of wealth once it has passed through a British passport or a British company.[14]

The Electoral Commission, the National Crime Agency, and the Committee on Standards in Public Life have all pressed successive governments to close these gaps, proposing that permissibility checks be extended to unincorporated associations, that company donations be restricted to profits actually generated in the UK, and that the dormant source-declaration requirement in section 54A finally be activated.[15] Reform has repeatedly been announced and repeatedly stalled. The analytical point that follows from the UK case is that this gap is not too complex a drafting problem for a government to have

[7](n 6).

[8]Arun Advani and others, 'The Regulation of Political Donations: Transparency, Foreign Interference and Tax Benefits' (CenTax, March 2026) <https://centax.org.uk/wpcontent/uploads/2026/03/AdvaniFlewGazmuribarkerInkleySummers2026_TheRegulationofPoliticalDonations.pdf>

[9]Peter Geoghegan and Martin Williams, '£60m in "Dark Money" Funnelled into British Politics' (Democracy for Sale, Substack) <https://democracyforsale.substack.com/p/how-to-secretly-pour-60m-into-british>

[10]Electoral Reform Society, 'Fair Elections Under Threat? The Loophole List' (October 2019) <https://www.electoral-reform.org.uk/wp-content/uploads/2019/10/Fair-elections-under-threat-The-Loophole-List.pdf>

[11]BBC News, 'FinCEN Files: Tory Donor Lubov Chernukhin Linked to $8m Putin Ally Funding' <https://feeds.bbci.co.uk/news/uk-54228079>

[12](n 11).

[13]Peter Geoghegan and Martin Williams, 'Conservatives Still Taking Cash from Russia-Linked Donors' (openDemocracy, 9 June 2022, amended 21 April 2026) <https://www.opendemocracy.net/en/conservative-party-russia-donors-ukraine-invasion/>

[14]Good Law Project, 'Revealed: The Tories Are Still Receiving Funds from Russia-Linked Donors' (30 April 2024) <https://goodlawproject.org/revealed-the-tories-are-still-receiving-funds-from-russia-linked-donors/>

[15]International Bar Association (n 5); House of Commons Library (n 4).

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solved in twenty-five years; it persists because the parties writing the reform are the same parties benefiting from the status quo, and a system built around maximising party-funding flexibility has, correspondingly, treated transparency as a lower priority.

III. THE UNITED STATES OF AMERICA

US campaign finance law begins from a different constitutional premise than the UK's. In Buckley v Valeo, the Supreme Court held that spending money to communicate a political message is itself a form of protected speech, and that while direct contribution limits could be justified as anti-corruption measures, independent political spending enjoyed much stronger First Amendment protection.[16] That distinction between contributions and independent expenditure is what Citizens United v FEC exploited and expanded in 2010, when the Court held, five to four, that corporations and unions have the same First Amendment right as individuals to make unlimited independent expenditures in support of or opposition to political candidates.[17] Weeks later, in SpeechNow.org v FEC, the DC Circuit applied that same logic to conclude that contribution limits could not constitutionally apply to groups making only independent expenditures, which created the modern super PAC: a vehicle that can raise and spend unlimited sums so long as it does not formally coordinate with a campaign.[18] Outside spending in federal elections rose from a few hundred million dollars before Citizens United to several billion dollars in the elections that followed.[19]

Alongside super PACs, the decision accelerated the growth of so-called dark money, spent through 501(c)(4) social welfare nonprofits and 501(c)(6) trade associations, neither of which is legally required to disclose its donors provided its political activity remains formally secondary to its stated purpose.[20] Citizens United itself does not extend these rights to foreign nationals or foreign corporations, and federal law separately bans foreign nationals from making any contribution or expenditure in connection with a US election.[21] The vulnerability, as with the UK, lies not in the express legal text but in the intermediary structures the system tolerates: a foreign government or foreign company can fund a domestic shell entity, which then funds a super PAC or a 501(c)(4), and because neither the shell nor the nonprofit is required to disclose its funders, the foreign origin of the money never appears on the public record.[22]

The second pillar of US law relevant here is the Foreign Agents Registration Act (FARA), a 1938 statute requiring anyone acting as an agent of a foreign government or foreign political interest, including in efforts to influence public opinion or policy, to register and disclose their activity and payments.[23] FARA is a disclosure statute rather than a prohibition, and for most of its history it was chronically under-enforced:

[16]Buckley v Valeo 424 US 1 (1976).

[17]Citizens United v Federal Election Commission 558 US 310 (2010); Brennan Center for Justice, 'Fifteen Years Later, Citizens United Defined the 2024 Election' <https://www.brennancenter.org/our-work/research-reports/fifteen-years-later-citizens-united-defined-2024-election>

[18]SpeechNow.org v Federal Election Commission 599 F 3d 686 (DC Cir 2010); 'Citizens United Explained: How Dark Money Shapes US Elections' (USPollingData.com) <https://uspollingdata.com/explainers/citizens-united/>

[19]OpenSecrets, '"Dark Money" Groups Have Poured Billions into Federal Elections since the Supreme Court's 2010 Citizens United Decision' (2023) <https://www.opensecrets.org/news/2023/01/dark-money-groups-have-poured-billions-into-federal-elections-since-the-supreme-courts-2010-citizens-united-decision>

[20]Brennan Center for Justice (n 3); USPollingData.com (n 16).

[21](n 18).

[22]'Citizens United: The Supreme Court Decision That Sold American Democracy to the Highest Bidder' (Substack, April 2026) <https://mitchthelawyer.substack.com/p/citizens-united-the-supreme-court>

[23]US Department of Justice, National Security Division, 'FARA: Foreign Agents Registration Act' <https://www.justice.gov/nsd-fara>

a 2016 Department of Justice audit found that the Department lacked any effective FARA enforcement strategy at all, and scholars have separately argued that the statute's own vagueness makes it genuinely difficult for the Department, or the public, to know who is even required to register.[24] Enforcement rose sharply after 2017, following the indictment of Trump campaign figures for unregistered lobbying on behalf of Ukrainian interests, but the Department of Justice signalled in a February 2025 memorandum that it would again narrow criminal FARA enforcement to conduct resembling traditional espionage, shifting most cases back toward civil rather than criminal treatment.[25] The result is a statute whose bite depends heavily on the enforcement priorities of whichever administration is in office, rather than on a stable legal standard.

The clearest case study of how these two weaknesses interact is Russian interference in the 2016 presidential election. Special Counsel Robert Mueller's investigation documented a social media influence operation run by the St Petersburg-based Internet Research Agency, which created fraudulent US personas and pages that reached roughly 126 million Facebook users, an operation that ran for years partly because political spending on internet advertising fell largely outside the Federal Election Commission's existing disclosure requirements.[26] Separately, congressional and journalistic reporting has traced Russian-linked money into a dark money group associated with the National Rifle Association, which went on to spend heavily on pro-Trump advertising in 2016, illustrating precisely the disclosure gap that dark money nonprofits create.[27] In neither case did existing campaign finance law require the ultimate source of the money or the activity to be disclosed before the election took place.

Taken together, the US case shows a distinctive dynamic: because political spending is constitutionally protected speech, and because that protection has been extended broadly to corporations and to independent-expenditure vehicles, the state's ability to compel transparency, the main tool left for policing foreign influence once outright bans on speech are off the table, is itself limited by the same constitutional logic that created the dark money problem. The US treats political spending as speech first and a regulatory object second, which makes the kind of source-tracing regulation used in the UK or India structurally harder to sustain.

IV. INDIA

India's Electoral Bonds Scheme, introduced through the Finance Act 2017 and operational from 2018, allowed any Indian citizen or Indian-incorporated company to purchase interest-free bearer bonds from designated State Bank of India branches and donate them, anonymously, to any registered political party, which could then encash them without disclosing the

[24] King & Spalding, 'Foreign Agents Registration Act: Enforcement in the Twenty-First Century' <https://www.kslaw.com/news-and-insights/foreign-agents-registration-act-enforcement-in-the-twenty-first-century> accessed 17 August 2026; International Center for Not-for-Profit Law, 'The Danger of the Foreign Agents Registration Act (FARA)' (April 2018) <https://www.icnl.org/wp-content/uploads/FARA's-Danger-to-Civil-Society-at-Home-and-Abroad.pdf>

[25] International Center for Not-for-Profit Law, 'Navigating the Foreign Agents Registration Act' <https://www.icnl.org/our-work/us-program/navigating-foreign-agents-registration-act> accessed 17 August 2026; WilmerHale, 'What Foundations and Other Nonprofits Need to Know About the Foreign Agents Registration Act' (16 October 2025) <https://www.wilmerhale.com/en/insights/client-alerts/20251016-what-foundations-and-other-nonprofits-need-to-know-about-the-foreign-agents-registration-act>

[26] Brennan Center for Justice, 'Analysis: The Mueller Report Exposed Weaknesses in US Campaign Finance Law' <https://www.brennancenter.org/sites/default/files/analysis/HR1%20Mueller%20Document-TNR.pdf> 2026; Time, 'Mueller Report Shows Scale of Russia Interference in 2016' (2019) <https://time.com/5573537/mueller-report-russia-election-interference/>

[27] Brennan Center for Justice (n 23).

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identity of the buyer.[28] The scheme was marketed by the government as a transparency reform intended to move donors away from untraceable cash, but its actual design guaranteed the opposite: bond purchasers' identities were known only to the bank, and neither the public, opposition parties, nor even, according to petitioners, the Election Commission itself could connect a given bond to its buyer.[29]

The scheme's foreign dimension came from a parallel, and less publicised, legislative change. Before 2016, the Foreign Contribution (Regulation) Act (FCRA) treated an Indian-registered company as a foreign source if half or more of its share capital was owned by foreign nationals, meaning donations from such companies to political parties were themselves treated as prohibited foreign contributions.[30] The Finance Acts of 2016 and 2018 amended the FCRA's definition with retrospective effect, so that an Indian-registered company would no longer count as a foreign source for these purposes so long as its foreign investment complied with ordinary foreign direct investment rules, irrespective of what percentage of the company was foreign-owned.[31] The amendment was passed as part of a Finance Bill, a legislative mechanism that in India receives more limited parliamentary scrutiny than an ordinary bill, and it applied retrospectively to 1976, which had the effect of shielding both major national parties from earlier findings that they had unlawfully accepted foreign company donations.[32] The Election Commission itself warned in a 2019 court affidavit that the amendment would permit unchecked funding of Indian parties by foreign companies with majority-owned Indian subsidiaries, and could allow Indian policy to be shaped by foreign corporate interests.[33] Combined with the anonymity of the bond mechanism, the result was a system in which a foreign company could route money into Indian elections through an Indian subsidiary, purchase electoral bonds, and remain permanently invisible to the public.

The Association for Democratic Reforms, an election-monitoring NGO, challenged the scheme from its introduction, arguing that it legitimised large-scale anonymous financing by both domestic and foreign companies and violated citizens' right to information.[34] An initial application for an interim stay was refused by the Supreme Court in 2021, with the bench at that stage describing the risk of foreign corporate influence as misconceived.[35] That position reversed decisively in February 2024, when a five-judge Constitution Bench, led by Chief Justice D Y Chandrachud, unanimously struck the scheme down as unconstitutional, holding that unlimited, anonymous corporate donation violated voters' right to

[28]Stimson Center, "India's Electoral Bond Conundrum" (8 May 2024) <https://www.stimson.org/2024/indias-electoral-bond-conundrum/>

[29]Supreme Court Observer, 'Constitutionality of the Electoral Bond Scheme' <https://www.scobserver.in/cases/association-for-democratic-reforms-electoral-bonds-case-background/>; Al Jazeera, "India's Supreme Court Scraps Electoral Bonds, Calls Them 'Unconstitutional'" (15 February 2024) <https://www.aljazeera.com/news/2024/2/15/indias-supreme-court-scraps-electoral-bonds-calls-it-unconstitutional>

[30]Association for Democratic Reforms (n 2).

[31]Association for Democratic Reforms (n 2); Jairam Ramesh (n 2).

[32]Janata Weekly, 'FCRA Amended to Condone Illegal Foreign Funding to BJP, Congress; Challenged in Supreme Court' <https://janataweekly.org/articles/fcra-amended-to-condone-illegal-foreign-funding-to-bjp-congress-challenged-in-supreme-court> accessed 17 August 2026.

[33]Jairam Ramesh (n 2); Al Jazeera, 'India Parties Now Can Get Foreign Funding, Activists Say Not OK' (11 April 2018) <https://www.aljazeera.com/features/2018/4/11/india-parties-now-can-get-foreign-funding-activists-say-not-ok>

[34]'NGO ADR Moves SC for Stay on Electoral Bond Scheme' (Deccan Herald) <https://www.deccanherald.com/amp/story/india%2Fngo-adr-moves-sc-for-stay-on-electoral-bond-scheme-781037.html>

[35]Supreme Court Observer (n 26).

information under Article 19(1)(a) of the Constitution, and ordering the bank to disclose, and the Election Commission to publish, full purchaser and recipient data going back to April 2019.[36] The disclosed data confirmed what critics had alleged: electoral bonds had come to account for a majority of all political funding in the country, with the great majority of disclosed funds flowing to the governing party, and the identities of most large purchasers becoming public for the first time.[37] A subsequent petition seeking review of the ruling was dismissed by the same bench in September of that year.[38]

The Indian case differs from the UK and US cases in one important respect: the opacity was not an incidental byproduct of a more general free-speech or company-law principle, but a purpose-built, jointly engineered outcome of two coordinated legislative changes, the bond scheme's guarantee of donor anonymity and the FCRA amendment's removal of the foreign-ownership test, passed together and defended by the government for six years before judicial intervention. Where the UK's gap survives through parliamentary inertia and the US's survives through constitutional doctrine, India's was the product of active legislative design, which makes the Supreme Court's 2024 intervention the only one of the three case studies in which a court, rather than a legislature, has actually closed a channel for foreign money once it was identified.

V. COMPARATIVE ANALYSIS

Set alongside each other, the UK, US, and Indian systems display more in common than their very different constitutional traditions might suggest, but the comparison is most useful when it goes beyond noting that all three have a loophole and asks why the loophole takes the specific legal shape it does in each system, how much room each system actually has to close it, and why, of the three, only one has been closed. Those three questions structure the rest of this section.

5.1 A shared mechanism: the single-hop test

In each jurisdiction, the operative legal question is not who ultimately controls the money but whether the immediate donor clears a single, formal test: a UK company's place of incorporation, a US entity's tax status, an Indian company's place of registration. Call this a single-hop test, since it looks one step back from the party receiving the money and stops there. A donor that is domestic on its face passes, regardless of what lies a second or third step further back in the ownership chain. This is precisely why the same structural workaround, a domestic-looking intermediary interposed between the ultimate foreign source and the recipient party, functions identically across three otherwise very different legal systems: it is not a shared drafting error but a shared design choice, since verifying beneficial ownership all the way up a corporate chain is administratively harder and more contestable than verifying a single registration fact, and every one of these statutes was drafted to be administrable by an electoral regulator with limited investigative capacity.

The three systems do, however, differ in how far they push even this single hop. The UK's test is the least demanding in principle, since a UK company need only be incorporated and trading in the UK to qualify, with no requirement to show that its profits, still less its ownership, are domestic.[39] The US test is formally similar for federal super PACs, which must disclose contributors above two hundred dollars, but the entire structure can be defeated by inserting a 501(c)(4) as the contributor, since the nonprofit itself faces no equivalent donor-disclosure duty, meaning the single hop is satisfied at the super PAC's books while remaining permanently opaque one layer further back.[40] India's amended FCRA test is, on paper, the most permissive of all three, since it does not merely

[36]Lexology (n 1); Supreme Court Observer (n 26); Al Jazeera (n 26).

[37]Stimson Center (n 25); Al Jazeera (n 26).

[38]'Supreme Court Dismisses Plea for Review of Judgment on Electoral Bonds Scheme' (Deccan Herald) <https://www.deccanherald.com/amp/story/india%2Fsupreme-court-dismisses-plea-for-review-of-judgment-on-electoral-bonds-scheme-3220914>

[39](n 6).

[40](n 20).

fail to look beyond the first hop but statutorily defines an Indian-registered subsidiary as domestic regardless of the percentage of foreign ownership, collapsing what had previously been a fifty percent foreign-ownership threshold into no threshold at all.[41] Layered onto bond-scheme anonymity, the Indian system briefly went a step further still and removed even the single hop from public view, since bond purchasers' identities were disclosed only to the issuing bank and not to the electorate, a design closer to a zero-hop system than a one-hop one.[42]

5.2 Unequal room for reform

The three systems also differ sharply in how much constitutional or institutional room exists to close the gap, which matters because it determines whether the fix is a matter of political will or a matter of doctrinal upheaval. The UK's gap is the shallowest of the three in this sense: section 54A of PPERA already exists in statute, was passed by Parliament in 2009, and requires only a commencement order, a form of secondary legislation that does not need fresh primary legislation or judicial reconsideration, to take effect.[43] That reform has not happened for seventeen years is therefore a fact about political priorities, not about the availability of a legal pathway.

The US position is more constrained, but not as absolutely as it first appears. Citizens United is often read as having foreclosed campaign finance regulation altogether, but the same decision upheld the disclosure and disclaimer requirements applied to Citizens United's own film by an eight-to-one vote, with only Justice Thomas dissenting, on the reasoning that disclosure serves a distinct governmental interest in giving voters information, one that survives even where spending limits themselves cannot.[44] That holding leaves real doctrinal room for transparency-based reform that would not need to reverse Citizens United at all. The limit on that room is structural rather than constitutional: the disclosure obligation the Court upheld attaches to the entity making the expenditure, not to the individuals who fund a 501(c)(4) further up the chain, so even a maximally aggressive use of the existing disclosure doctrine would not, by itself, reach the donors behind a dark money nonprofit.[45] Extending disclosure that far up the chain would require new legislation from Congress or new rulemaking from the Federal Election Commission, and the Commission is structured as a six-member body evenly split between the two major parties, which has repeatedly deadlocked on enforcement votes precisely where they would affect either party's own funding advantage.[46] The US gap, in other words, is not sealed by the Constitution so much as it is protected by an enforcement body designed to require bipartisan consent to act, which functions almost as effectively as a constitutional bar.

India's gap involved the least available room for a purely legislative fix, since it had been built through two Finance Act amendments passed with minimal debate and defended by the government for six years, but it also produced the only successful closure of the three, and it did so through judicial rather than legislative action. This was possible because Indian constitutional doctrine allows the Supreme Court to review legislation, including legislation passed as part of a money bill with reduced parliamentary scrutiny, against the fundamental right to information under Article 19(1)(a), a form of proactive review with no precise equivalent in either the UK's model of parliamentary sovereignty or the US's speech-protective First Amendment doctrine, which was itself the source of the American loophole rather than a resource for closing it.[47]

[41](n 31).
[42](n 29).
[43](n 8).
[44]Citizens United v Federal Election Commission 558 US 310 (2010) 366-71 (Kennedy J); LegalClarity, 'What Is Citizens United v. FEC? The Case Explained' <https://legalclarity.org/what-is-citizens-united-v-fec-the-case-explained/>
[45]Lloyd Hitoshi Mayer, 'Disclosures About Disclosure' (2011) 44 Indiana Law Review 255, 255-57 <https://mckinneylaw.iu.edu/practice/law-reviews/ilr/pdf/vol44p255.pdf>
[46]Brennan Center for Justice (n 23); Federal Election Commission, structure and voting rules under 52 USC §30106(a)(1).
[47](n 36).

5.3 Regulators who diagnose but cannot prescribe

A further point of convergence is that in all three jurisdictions, the body formally responsible for policing the loophole identified it publicly well before any corrective action was taken, and in the UK and US cases, no corrective action has been taken at all. The UK Electoral Commission has recommended activating section 54A and extending permissibility checks to unincorporated associations for over a decade, but the Commission itself has no power to legislate and depends entirely on the government of the day choosing to act on its advice.[48] The US Federal Election Commission's own gridlock has already been noted, and its counterpart problem, chronic under-enforcement of FARA by the Department of Justice, was documented in the Department's own 2016 internal audit, which found no effective enforcement strategy existed at all, a finding that came from inside the executive branch responsible for enforcement rather than from an outside critic.[49] India's Election Commission is the partial exception: it did not merely publish a report but filed a formal affidavit warning of the FCRA amendment's foreign-funding risk directly within the litigation that ultimately produced the 2024 ruling, which meant its warning was not simply available for a future government to ignore but was placed directly in front of the court deciding the case.[50] The comparison suggests that a regulator's diagnosis only translates into a cure when it can be routed through a body with the power to compel a remedy, rather than a body that can only recommend one to the same political actors who benefit from inaction.

5.4 Civil society and the limits of exposure

Investigative and advocacy pressure has been intense in all three systems, from the Electoral Commission, the Good Law Project, and openDemocracy in the UK, to OpenSecrets and the Brennan Centre in the US, to the Association for Democratic Reforms in India, and in each case that pressure produced detailed, credible public documentation of the loophole in question.[51] Only in India, however, did that documentation lead directly to a binding remedy, and the explanation lies less in the quality of the reporting, which is comparably rigorous across all three, than in the litigation tools available to civil society once the reporting exists. ADR was able to bring the Electoral Bonds Scheme directly before the Supreme Court as a constitutional challenge, using a form of public interest standing that lets an organisation contest legislation on behalf of the electorate generally rather than needing to show that a specific individual was harmed by a specific transaction.[52] No comparably direct route exists in the UK, where courts have historically deferred to Parliament's own calibration of election law, or in the US, where the very right that a challenger would need to assert, a public interest in knowing who funds political speech, sits in tension with the speech-protective doctrine that created the dark money problem in the first place, making a lawsuit of ADR's kind a far harder route to a remedy even where the underlying facts are just as well documented.

5.5 Whose interest the gap actually serves

The final and most important point of convergence is that in each system, the loophole has persisted because the political actors positioned to close it are also among its beneficiaries, and this is true even where, at first glance, it looks like a partisan story. In the UK, the illustrative case study involved Conservative Party donors, but the underlying mechanism, permissive company donation rules with no beneficial-ownership check, is available to any party capable of attracting large corporate or company-linked donors, which is why cross-party reform of section 54A has never gathered enough momentum to force a commencement order despite changes of government.[53] In the US, dark money spending flows to both major parties' aligned nonprofits and super PACs, and neither party, when it has held a majority in Congress, has legislated the kind of upstream donor disclosure discussed above, since doing so would require unilaterally disarming a funding structure the party in power is itself using.[54] India offers the clearest illustration of this dynamic, because the FCRA

[48](n 15).
[49](n 24).
[50](n 33).
[51](n 9).
[52](n 34).
[53](n 4).
[54](n 19).

amendment that shielded foreign company donations from disclosure was retrospective, and documented cases show that both the governing party and the principal opposition party had previously received donations from Indian subsidiaries of foreign companies that the amendment retroactively legalised.[55] That both major parties had an interest in the amendment surviving helps explain why the challenge to it was ultimately brought not by a rival political party but by a non-partisan election-monitoring NGO with no stake in the existing funding structure. Across all three jurisdictions, then, the persistence of the loophole is best explained not primarily by constitutional design or institutional capacity, though both matter, but by the fact that loophole-closing reform is, in each case, a request that incumbents impose a cost on themselves.

VI. CONCLUSION

Returning to the question posed at the outset: across the UK, the US, and India, foreign money has not been kept out of democratic politics so much as required to change its paperwork. A UK-registered shell company, a US 501(c)(4) or super PAC, and an Indian subsidiary purchasing an anonymous bond all perform the same function, breaking the legal link between the money a party receives and the person who actually supplied it, while leaving the formal prohibition on foreign donations technically intact and rhetorically satisfied.

Genuine reform would require each system to test what current law does not: beneficial ownership rather than formal registration. That would mean activating the UK's dormant source-declaration requirement and extending permissibility checks to unincorporated associations; building disclosure requirements for dark money nonprofits and super PACs in the US that can survive First Amendment scrutiny by regulating transparency rather than spending itself, alongside more consistent, less politically contingent FARA enforcement; and, in India, defending the post-2024 default of donor disclosure against future attempts to reintroduce anonymity in whatever form they might take.

The broader point concerns what legitimacy actually requires of a democracy. A state can comply with the letter of a foreign-donation ban while its practical financing structure remains penetrable, and voters can be told, accurately, that foreign contributions are illegal while having no way of knowing whether the domestic company, nonprofit, or bond purchaser funding a given party is itself foreign-controlled. Democratic legitimacy rests not merely on the formal right to vote but on the ability of citizens to know, and therefore judge, who is actually trying to shape the choices put in front of them. Where that knowledge is unavailable, the ban on foreign financing becomes, in practical effect, a ban on foreign financing that is easy to see, rather than a ban on foreign influence itself.

[55] (n 32).

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